

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 578

Case No. 86-30C

(Wical Limited Partnership - PUD)

July 11, 1988

Pursuant to notice, the District of Columbia Zoning Commission held public hearings on March 3, April 4 and May 5, 1988 to consider the application of Wycal Limited Partnership for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 7501 and 9101 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application, which was originally filed on December 12, 1986, requests consolidated review and approval of a PUD and related change of zoning for a portion of lot 955, square 1299 located at 2323 Wisconsin Avenue, N.W. from R-1-B to C-2-A.
2. The PUD site is located in Glover Park and is bounded by Wisconsin Avenue to the west, Observatory Lane to the south, the U.S. Naval Observatory to the east and Guy Mason Adult Recreation Center and Calvert Street to the north.
3. The applicant proposes to construct a multi-family residential building consisting of 166 apartment units of approximately 152,610 square feet of gross floor area. The project proposes a height of forty-seven (47) feet as measured from Wisconsin Avenue. The proposed building will be five stories in height facing Wisconsin Avenue and seven stories facing the Naval Observatory. The project proposes a floor area ratio (FAR) of 3.27, a lot occupancy of forty-eight (48) percent, 179 parking spaces in an underground parking garage, and two (2) short term visitor parking spaces outside the building for a total of 181. There will be one 55x12 foot service/delivery loading space.
4. The C-2-A District permits matter-of-right low and

medium density development, including office, retail and all types of residential uses to a maximum FAR of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of residential uses.

5. The R-1-B District permits low density single-family dwelling and other appropriate uses to a maximum height of 40 feet (3 stories), a minimum width of 50 feet, a minimum area of lot of 5,000 square feet, and a maximum lot occupancy of 40 percent for residential uses (60 percent for a church or public school).
6. Under the PUD process of the Zoning Regulations, Chapter 24 of 11 DCMR, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above.
7. The Generalized Land Use Element Map of the Comprehensive Plan for the National Capital shows the area as in the vicinity of the subject PUD in a low density commercial category. The subject area is also shown as a local neighborhood center.
8. The National Capital Planning Commission (NCPC), the U.S. Naval Observatory, the U.S. Secret Service, Advisory Neighborhood Commission - 3B, Advisory Neighborhood Commission - 3C, the Massachusetts Avenue Heights Citizens Association, and the Glover Park Citizens Association joined the proceedings as parties in opposition.
9. By letter of February 18, 1988, the National Capital Planning Commission requested that no final action be taken on this application until such time as the Commission has taken final action on Zoning Commission Case No. 87-34, a proposal to establish a Naval Observatory Precinct District, because the District, if created, would govern development of the property which is the subject of this present application.
10. On March 14, 1988, the Zoning Commission agreed not to take final action on this application until it was prepared to consider final action on Zoning Commission Case No. 87-34, due to the overlapping issues in both cases. This preliminary determination is rendered moot by the Commission's decision to deny the application.
11. On Thursday, March 3, 1988, Monday, April 4, 1988 and Thursday, May 5, 1988, the Zoning Commission held public hearings on the application. The applicant and its witnesses through testimony presented at the public hearing, indicated that it prefers to build the all residential modified PUD, but it is pursuing the

approval of the matter-of-right project to protect its property rights. The applicant intends to proceed with the development of the matter-of-right project if the PUD is not approved.

12. The matter-of-right project is a mixed-used project consisting of 61,324 square feet of gross floor area devoted to commercial uses with 49 residential uses. The FAR is 2.5 and the height is 50 feet. The matter-of-right project includes 165 parking spaces, with 157 spaces in the garage and 8 surfaces spaces.
13. The District of Columbia Office of Planning (OP), by memorandum dated February 24, 1988, and by testimony presented at the public hearing recommended denial of the application for a PUD and related map change. OP was not persuaded that the proposed project would not have an adverse impact on the security of the Vice President's residence and the efficient operation of the U.S. Naval Observatory. OP stated that the site is located in an area designated on the Generalized Land Use Map of the Land Use Element of the Comprehensive Plan for low density shopping and services that are generally low in scale, character and activity, and that the adjoining area to the north is designated for low density, single-family detached and semi-detached housing. OP was of the opinion that the site is located in a sensitive area near the Observatory Circle and abuts low-rise buildings on Wisconsin Avenue. OP suggested that the design of the proposed development should be judged in terms of its relationship with the existing development on Wisconsin Avenue and the observatory Circle. Also, because of the importance of the streetscape, and the fact the proposed development would be higher than existing storefronts (by 3 stories), special attention should be given to the interface of the proposed building with the existing two-story buildings.
14. The National Capital Planning Commission, party in the proceedings, by letter dated April 4, 1988, and by testimony presented at the public hearing, recommended denial of the application due to the harmful impacts the PUD would have on the Federal Interests, namely the security of the Vice President in his residence, and the ability of the Naval Observatory to perform its mission.
15. NCPC noted that this planned unit development was inconsistent with the Comprehensive Plan, because:
 - a. the Urban Design Element of the Comprehensive Plan requires buildings to be designed to include the use of appropriate arrangements of building

materials, height, scale, massing and buffering to complement the immediate region, and because;

- b. the Transportation Element of the Plan requires new residential developments to minimize traffic impact on adjacent streets with adequate and appropriate traffic circulation systems.
16. The U.S. Naval Observatory, party to the proceedings, opposed the application of the grounds of irrevocable harm to the Observatory's astronomical activities, and detrimental impact to the nation's defense and space-related activities. The Naval Observatory is charged with developing and maintaining sophisticated celestial (star position and motion) reference systems for the Department of Defense and the scientific community, for such uses as satellite navigation, missile guidance systems, stellar tracking systems, satellite station keeping, and various geodetic applications.
17. The U.S. Secret Service, party in the proceedings, by testimony presented at the public hearings, opposed the application on the grounds that the proposed planned unit development would have a deleterious effect on the Service's efforts to provide the safest possible environment around the Vice President's residence. Experts from the Secret Service testified that the Service is mandated by law to provide protection for the Vice President, his family, and visiting dignitaries at the residence. That protection is provided 24 hours a day, every day of the year.
18. Advisory Neighborhood Commission (ANC) 3B, by written submission dated May 20, 1988, and by testimony presented at the public hearing, opposed the application for the following reasons:
- a. The proposed density exceeds the PUD guidelines by 10 percent without justification. ANC - 3B believes that the applicant receives bonus floor area by virtue of the downward sloping grade, and that additional floor area should not be granted to further increase the density.
 - b. ANC- 3B believes that the proposed project is not compatible with the surrounding neighborhood, or the Comprehensive Plan designation of the area as a local neighborhood center.
 - c. ANC-3B believes that the traffic analysis was inadequate in that the report failed to address the impact on the Massachusetts Heights area and the cumulative effect of development on Wisconsin

Avenue. In addition, ANC - 3B faulted the report for failing to address off-peak hour conditions in addition to rush hour traffic.

- d. ANC-3B stated that the project ignores the legitimate concerns of the Secret Service and the Naval Observatory, and that rezoning the R-1-B buffer area to C-2-A would set a precedent for other developments bordering the Naval Observatory.
 - e. Finally, ANC-3B faulted the applicant for not providing adequate public amenities other than the provision of additional housing.
19. Advisory Neighborhood Commission (ANC) 3C, by resolution adopted May 23, 1988, and by testimony at the public hearing, opposed the application for the following reasons:
- a. ANC-3C stated that the proposed PUD will have a negative impact on parking and traffic in the area of the Massachusetts Heights neighborhood.
 - b. ANC-3C faults the applicant for providing inadequate public amenities, while diminishing existing public amenities such as the Guy Mason ball field, the Naval Observatory and the Vice President's house.
 - c. The Comprehensive Plan designates the area as a local neighborhood center, low density retail. ANC-3C believes that the PUD is a dense housing proposal in an area that is not designated as a housing opportunity area.
20. The Commission concurs with the position of ANC-3B, and the recommendation of the Office of Planning and others regarding denial of the application. The applicant has not adequately proposed measures to address the protection of the Vice President's home.
21. The Commission finds that the scale, height, and bulk of the development are excessive in relation to the surrounding neighborhood and that insufficient design modifications have been proposed to alleviate the harmful impacts of the development on the surrounding neighborhood.
22. The proposed development would be inconsistent with the Urban Design and Transportation elements of the Comprehensive Plan, because the development does not provide adequate transportation systems to offset its impact on the neighboring streets, and the proposed

design of the development does not include sufficient appropriate arrangements of building materials, height, scale, massing, and buffers to protect the immediate area around the development.

23. The proposed PUD would not enhance its neighborhood in any way that would set it apart from a matter-of-right development.
24. The design of the proposed PUD is reasonably attractive, but is not significantly superior to design which would reasonably be expected in a matter-of-right development.
25. The proposed PUD would not provide a superior living or working environment or amenities superior to those which could be achieved by a matter-of-right development.
26. The residential nature of the proposal is a positive element, but, in light of the Comprehensive Plan designation for the area, is an inadequate basis for approval of the project and the accompanying map amendment.
27. The Commission finds that the heat generated by the proposed building would interfere with the observatory's sophisticated celestial reading equipment, used in surveillance and missile guidance.

CONCLUSIONS OF LAW

1. The applicant has not met the burden of proof necessary to sustain the approval of this PUD application and related map amendment, pursuant to 11 DCMR 2400.7 and 2403.10.
2. The approval of this application would be inconsistent with the Comprehensive Plan for the National Capital.
3. Approval of the application would not be consistent with purposes of the Zoning Act and the Zoning Regulations of the District of Columbia, and, in particular, 11 DCMR 2400.
4. The Zoning Commission has accorded ANC-3B the "great weight" consideration to which it is entitled.
5. The Commission determined that the applicant did not fulfill his burden to prove the case.


DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission of the District of Columbia hereby orders that this application for consolidated review and approval of a Planned Unit Development and related map amendment from R-1-B to C-2-A for a portion of lot 955 in Square 1299 be DENIED.

Vote of the Commission taken at the public meeting on June 13, 1988: 3-1 (John G. Parsons, Lindsley Williams and Maybelle Taylor Bennett, to deny - George M. White, opposed and Patricia N. Mathews, not present not voting).

This order was adopted by the Commission at the public meeting on July 11, 1988 by a vote of 4-1 (John G. Parsons, Patricia N. Mathews and Lindsley Williams, to adopt, as amended, and Maybelle Taylor Bennett, to adopt by absentee vote - George M. White, opposed).

In accordance with 11 DCMR 3028, this Order is final and effective upon publication in the D.C. Register, that is on
02 SEP 1988.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat

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